

MINUTES OF THE OPEN SESSION

OF THE RHODE ISLAND ETHICS COMMISSION

August 10, 2004

The Rhode Island Ethics Commission held its 12th meeting of 2004 at 9:00 a.m. at the Rhode Island Ethics Commission Conference room, located at 40 Fountain Street, 8th Floor, Providence, Rhode Island, on Tuesday, August 10, 2004, pursuant to the notice published at the Commission Headquarters and on the State House Library.

The following Commissioners were present:

James Lynch, Sr., Chair Francis J. Flanagan*

Patricia M. Moran, Vice-Chair George E. Weavill, Jr.

Richard E. Kirby* James C. Segovis

James V. Murray Frederick K. Butler

Also present were Kathleen Managhan, Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney; Jason M. Gramitt, Commission Education Coordinator; Steven T. Cross, Commission Investigator and Peter J. Mancini, Commission Investigator.

At approximately 9:06 a.m., the Chair opened the meeting. The first order of business was to approve the minutes of the Open Session held on July 20, 2004. Upon motion made by Frederick K. Butler and

duly seconded by James V. Murray, it was unanimously

VOTED: To approve the minutes of the Open Session held on July 20, 2004.

The next order of business was that of advisory opinions. The advisory opinions were based on draft advisory opinions prepared by the staff for review by the Commission and were scheduled as items on the Open Session Agenda for this date. The first advisory opinion was that of David B. Collins, Chairman of the Tiverton Zoning Board of Review. Mr. Gramitt advised that a third party recently informed that the petitioner also leases a boat slip from the Yacht Club, a fact that was not represented by the petitioner and has not been verified. In response to Commissioner Weavill, Mr. Gramitt stated that the matter is not moot. Commissioner Segovis expressed that even if the petitioner is a mere Club member, he has an interest in the Club and is not unbiased.

Mr. Gramitt explained that the Code does not require the petitioner's recusal unless there is a financial nexus. Commissioner Weavill noted that if the Club were allowed to rebuild, members could face special assessments to cover expenses. Mr. Gramitt replied that the petitioner indicated in his request letter that if that were the case he would not have to renew his membership. Chair Lynch suggested that the Commission consider the request based upon the facts presented by the petitioner. Upon motion made by Patricia M. Moran

and duly seconded by Frederick K. Bulter, it was

VOTED: To issue an advisory opinion, attached hereto, to David B. Collins, Chairman of the Tiverton Zoning Board of Review.

AYES: Frederick K. Bulter, James Lynch, Sr., James V. Murray and Patricia M. Moran.

NOES: George E. Weavill, Jr. and James C. Segovis.

No advisory opinion issues due to a lack of five affirmative votes.

Mr. Gramitt advised that the remaining advisory opinions noticed on the Open Session agenda would be continued so that the staff may obtain additional information.

The next order of business was the Director's Report. Mr. Willever reported that Legal Assistant Andrea L. Truppa recently left the Commission's employ. The Commission is awaiting permission to update that position to a staff attorney. He noted that the Commission's FY 05 Budget included three new staff positions, including that of an administrative assistant, investigator and attorney. Mr. Willever informed that the staff would be following up on those who have failed to file the 2003 financial statement. Last year's efforts increased the compliance rate to over 90%.

***Commissioner Kirby arrived at 9:29 a.m.**

Mr. Willever advised that 2-3 cases have been scheduled for hearing at each meeting and every case has settled prior to hearing. The number of Complaints has decreased from 19 to 14. He reported that he and Mr. Gramitt provided ethics training to over 400 attendees at the AG's Open Government Summit on August 6th. In response to Commissioner Butler, he stated that attendees had questions regarding who must file financial disclosure and how to obtain more information on the Code. In response to Commissioner Weavill, he indicated that the addition of new staff members would not create space problems, although there would not be sufficient computer equipment for all. Mr. Willever stated that the Commission received additional budget funds to modernize its computer software. He thanked the investigators for taking the time to personally hand notices of adjudication to individuals. Mr. Willever advised that, in response to such efforts, the cases settled prior to hearing.

*** The Commission took a brief recess at 9:35 a.m.**

At 10:00 a.m., upon motion made by Richard E. Kirby and duly seconded by Frederick K. Butler, it was unanimously

VOTED: To go into Executive Session pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (a)(4), for the discussion of investigative proceedings regarding allegations of misconduct and/or the

discussion of litigation, and approval of minutes relating to such discussions, to wit:

a) Motion to approve minutes of Executive Session held on July 20, 2004.

b) In re: Donald Carcieri, Complaint No. 2004-3

c) In re: William J. McManus, Complaint No. 2004-2

At 12:59 p.m., the Commission returned to Open Session, without the presence of Commissioners Kirby and Moran, and the Chair reported on actions taken in Executive Session. The next order of business was a motion to seal minutes of the Executive Session held on August 10, 2004. Upon motion made by James V. Murray and duly seconded by George E. Weavill, Jr., it was unanimously

VOTED: To seal the minutes of the Executive Session held on August 10, 2004.

At 1:00 p.m., upon motion made by George E. Weavill, Jr. and duly seconded by James C. Segovis, it was unanimously

VOTED: To adjourn the meeting.

Respectfully submitted,

Robin L. Main

Secretary